

ESTTA Tracking number: **ESTTA271219**

Filing date: **03/10/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Lacoste Alligator S.A.		
Entity	Corporation	Citizenship	Switzerland
Address	8 rue Muzy Geneva 3, CH-1211 SWITZERLAND		

Attorney information	David Ehrlich Fross Zelnick 866 UN Plaza New York, NY 10017 UNITED STATES ehrllich-docket@fzllz.com Phone:212 813-5920
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Applicant Information

Application No	76686851	Publication date	02/17/2009
Opposition Filing Date	03/10/2009	Opposition Period Ends	03/19/2009
Applicant	DON'T GET COCKY, L.L.C. 4846 E. Mulberry Drive Phoenix, AZ 85018 UNITED STATES		

Goods/Services Affected by Opposition


Class 025. All goods and services in the class are opposed, namely: Clothing, namely, caps, hats, t-shirts, shirts, sweaters, pants, shorts, sweat shirts, skirts and visors

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2004314	Application Date	09/29/1995
Registration Date	10/01/1996	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1935/00/00 First Use In Commerce: 1950/00/00 polo shirts, sweatshirts, blousons, shirts, pants, shorts, skirts, dresses, jogging suits, sweaters, jackets, parkas, headwear, robes, swimwear, footwear, socks, belts, gloves

Attachments	74735966#TMSN.jpeg (1 page)(bytes) Notice of Opposition against Don't Get Cocky, L.L.C. (F0428239).PDF (4 pages)(55149 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/dwe/
Name	David Ehrlich
Date	03/10/2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Serial No. 76/686851

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LACOSTE ALLIGATOR, S.A.,	:
	:
Opposer,	:
	:
- against -	:
	:
DON'T GET COCKY, L.L.C.,	:
	:
	:
Applicant.	:
-----X	

Opposition No.

NOTICE OF OPPOSITION

Opposer believes that it will be damaged by registration of the design mark shown in the above-described application, and hereby opposes the same. As grounds of opposition, it is alleged that:

1. Opposer owns a design mark of a stylized crocodile or alligator for shirts and other clothing. Opposer, though licensees, has used this mark in the U.S. since before Applicant's filing date.
2. Opposer is the owner of U.S. Trademark Reg. No. 2,004,314 for such design mark for those goods.
3. Applicant filed the application at issue on February 15, 2008, based on intent-to-use, for a combination word and design mark which prominently includes a drawing of a stylized alligator, which is virtually identical to Opposer's design mark, with a horse and rider in its

mouth, plus the words DON'T GET COCKY!, for the same and closely related goods. Upon information and belief, Applicant has no basis to claim an earlier priority than Opposer.

4. Applicant's mark so resembles Opposer's mark as to be likely, when applied to the goods of Applicant, to cause confusion, or to cause mistake, or to deceive, in violation of Lanham Act Section 2(d).

5. Opposer's mark is a famous luxury brand which is copied entirely in Applicant's mark. Therefore, Applicant's mark is likely to cause dilution by blurring. Some consumers could also interpret Applicant's mark as tastelessly showing Opposer's mark eating the RALPH LAUREN POLO logo or simply as eating a person and a horse or a polo player and a horse, and such consumers are likely to be offended. Therefore, Applicant's mark is also likely to cause dilution by tarnishment. Such dilution violates Sections 13 and 43(c) of the Lanham Act.

6. Opposer would be injured by the granting to Applicant of a certificate of registration for the trademark for which registration is sought because this mark would tend to damage Opposer's goodwill in its mark.

7. By reason of the foregoing, Applicant is not entitled to the registration of the trademark sought by its application.

WHEREFORE, Opposer respectfully prays that this opposition be sustained and that the application be denied.

Dated: New York, New York
March 10, 2009

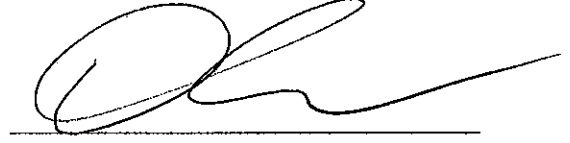
Respectfully submitted,
FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: 

David Ehrlich
Attorney for Opposer
866 United Nations Plaza
New York, New York 10017
(212) 813-5900
Opposer's Ref: LCA USA TC-09/01852

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by First Class mail on the attorney for the applicant, Gregory J. Nelson, Nelson & Roediger, 4500 N 32nd Street, Suite 110, Phoenix, Arizona 85018, on this 10th day of March 2009.

A handwritten signature in black ink, appearing to read 'David Ehrlich', is written over a horizontal line.

David Ehrlich